

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

United States of America

v.

Case No. 2:08-cr-55-2

Rafael Hernandez-Carrillo

Opinion and Order

This matter is before the Court on the motion of Defendant for a sentence reduction for “extraordinary and compelling reasons” pursuant to 18 U.S.C. § 3582(c)(1)(A)(i). In 2009 Defendant was found guilty by a jury of Engaging in a Continuing Criminal Enterprise, and he was sentenced to a mandatory term of life imprisonment. *See* 21 U.S.C. § 848(b).

In 2022 this Court denied a motion for compassionate release filed by Defendant. *See* Doc. 318. One of the asserted grounds for compassionate release was a change in societal views towards marijuana, which was the controlled substance that Defendant’s criminal enterprise distributed. The Court – after giving Defendant’s life sentence a “second look” under the First Step Act and considering various sentencing factors – found that Defendant’s continued incarceration remained intelligible and justifiable after 14 years of the sentence being served. The Court denied the motion for compassionate release without prejudice to Defendant renewing the motion as he approached 20 years of time served.

Defendant’s current motion for a sentence reduction is based on several grounds. Defendant argues that he received an unusually long sentence, for which there is a gross disparity relative to the sentence which the offense would warrant if he were to be sentenced today. He also notes his post-conviction rehabilitation and remorse.

The Government opposes the motion, emphasizing that Defendant failed to exhaust his administrative remedies. The Court agrees. In neither Defendant’s motion nor his reply brief does he allege or show that he exhausted his administrative remedies. A district court has no authority to grant a defendant’s motion for a sentence reduction under 18 U.S.C. § 3582(c)(1)(A)(i) unless “defendant has fully exhausted all administrative rights” with the warden of the facility in which he is incarcerated. “Absent a showing of exhaustion, this court cannot rule on defendant’s request for a

reduction of sentence under subsection (i).” *United States v. Dougherty*, No. 2:18-CR-229-2, 2020 WL 1909964, at *2 (S.D. Ohio Apr. 20, 2020).

Accordingly, Defendant’s motion for a sentence reduction (doc. 320) is denied without prejudice. Defendant’s motion for leave to file (doc. 319) is granted.

Date: December 12, 2024

s/ James L. Graham

James L. Graham

United States District Judge